

AMENDED IN SENATE JANUARY 25, 2010

AMENDED IN SENATE MAY 5, 2009

SENATE BILL

No. 31

Introduced by Senator Pavley
(Principal coauthor: Assembly Member Huffman)
(Coauthor: Senator Hancock)

December 2, 2008

An act to amend ~~Sections 38505 and 38597 of~~ *Section 38505 of*, and to add *Section 38575 to*, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 31, as amended, Pavley. California Global Warming Solutions Act of 2006: revenue allocations.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include the use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee to be deposited into the Air Pollution

Control Fund and be available, upon appropriation by the Legislature, for purposes of carrying out the act.

~~This bill would require that revenues collected pursuant to compliance mechanisms, as defined, adopted by the state board also be deposited in the Air Pollution Control Fund. This bill would specify certain uses of the revenues collected pursuant to the fee discussed above and the compliance mechanisms provide that revenues generated from fees to fund expenditures beyond the administrative costs of implementing the act, revenues generated as a result of the implementation of market-based compliance mechanisms, or revenues generated from compliance mechanism, as defined, shall be appropriated by the Legislature in furtherance of the act for purposes determined by the Legislature.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Legislature enacted the California Global Warming
- 4 Solutions Act of 2006 (the act) in an effort to curb
- 5 climate-changing greenhouse gases that pose a serious threat to
- 6 the economic well-being, public health, natural resources, and
- 7 environment of California.
- 8 (b) The act requires the State Air Resources Board, to the
- 9 maximum extent feasible, to direct public and private investment
- 10 toward the most disadvantaged communities in California and
- 11 provide an opportunity for small businesses, schools, affordable
- 12 housing associations, and other community institutions to
- 13 participate in and benefit from statewide efforts to reduce
- 14 greenhouse gas emissions.
- 15 (c) The act also directs the state board to create policies,
- 16 programs, and regulations that maximize benefits for California's
- 17 economy, improve and modernize California's energy infrastructure
- 18 and maintain electric system reliability, maximize additional
- 19 environmental and economic cobenefits for California, and
- 20 complement the state's efforts to improve air quality.
- 21 (d) The state board estimates that efforts to reduce greenhouse
- 22 gas emissions and develop new green technology would boost

1 economic production by twenty-seven billion dollars
2 (\$27,000,000,000) and create approximately 100,000 jobs in
3 California. The state board also states that air pollution
4 improvements under the act will provide broad public health
5 benefits, including reductions in premature death, respiratory
6 disease, asthma, and worker absenteeism attributed to health
7 problems.

8 (e) In the process of implementing the act, policy bodies that
9 are carrying out or advising on its implementation, including the
10 state board, the State Energy Resources Conservation and
11 Development Commission, the Public Utilities Commission, the
12 Environmental Justice Advisory Committee, the Economic and
13 Technology Advancement Advisory Committee, and the Market
14 Advisory Committee all recommend some form of fees, auctions,
15 or other revenue sources to carry out the provisions of the act.

16 (f) It is the Legislature's role and responsibility to ensure that
17 expenditures of public funds reflect the policy priorities and public
18 interests of the people of California.

19 *SEC. 2. Section 38505 of the Health and Safety Code is*
20 *amended to read:*

21 38505. For the purposes of this division, the following terms
22 have the following meanings:

23 (a) "Allowance" means an authorization to emit, during a
24 specified year, up to one ton of carbon dioxide equivalent.

25 (b) "Alternative compliance mechanism" means an action
26 undertaken by a greenhouse gas emission source that achieves the
27 equivalent reduction of greenhouse gas emissions over the same
28 time period as a direct emission reduction, and that is approved
29 by the state board. "Alternative compliance mechanism" includes,
30 but is not limited to, a flexible compliance schedule, alternative
31 control technology, a process change, or a product substitution.

32 (c) "Auction" or "auctioning" means a publicly accessible and
33 recorded sale or transaction conducted by means of oral or written
34 exchanges, including exchanges made in person or through
35 electronic media, to the highest bidder, of a limited quantity of
36 allowances to covered entities in a capped system, in which those
37 entities are prohibited from emitting pollution beyond the amount
38 authorized by allowances to be surrendered. "Auction" or
39 "auctioning" does not include any exchange not subject to the

1 *laws governing financial transactions within the jurisdiction of*
2 *the state.*

3 ~~(e)~~

4 (d) “Carbon dioxide equivalent” means the amount of carbon
5 dioxide by weight that would produce the same global warming
6 impact as a given weight of another greenhouse gas, based on the
7 best available science, including from the Intergovernmental Panel
8 on Climate Change.

9 (e) “*Compliance mechanism*” means the use of a
10 *revenue-generating mechanism that may include, but is not limited*
11 *to, auctioning.*

12 ~~(f)~~

13 (f) “Cost-effective” or “cost-effectiveness” means the cost per
14 unit of reduced emissions of greenhouse gases adjusted for its
15 global warming potential.

16 ~~(g)~~

17 (g) “Direct emission reduction” means a greenhouse gas
18 emission reduction action made by a greenhouse gas emission
19 source at that source.

20 ~~(h)~~

21 (h) “Emissions reduction measure” means programs, measures,
22 standards, and alternative compliance mechanisms authorized
23 pursuant to this division, applicable to sources or categories of
24 sources, that are designed to reduce emissions of greenhouse gases.

25 ~~(g)~~

26 (i) “Greenhouse gas” or “greenhouse gases” includes all of the
27 following gases:

28 (1) Carbon dioxide.

29 (2) Methane.

30 (3) Nitrous oxide.

31 (4) Hydrofluorocarbons.

32 (5) Perfluorocarbons.

33 (6) Sulfur hexafluoride.

34 (7) Nitrogen trifluoride.

35 ~~(h)~~

36 (j) “Greenhouse gas emissions limit” means an authorization,
37 during a specified year, to emit up to a level of greenhouse gases
38 specified by the state board, expressed in tons of carbon dioxide
39 equivalents.

40 ~~(i)~~

1 (k) “Greenhouse gas emission source” or “source” means any
2 source, or category of sources, of greenhouse gas emissions whose
3 emissions are at a level of significance, as determined by the state
4 board, that its participation in the program established under this
5 division will enable the state board to effectively reduce greenhouse
6 gas emissions and monitor compliance with the statewide
7 greenhouse gas emissions limit.

8 ~~(j)~~

9 (l) “Leakage” means a reduction in emissions of greenhouse
10 gases within the state that is offset by an increase in emissions of
11 greenhouse gases outside the state.

12 ~~(k)~~

13 (m) “Market-based compliance mechanism” means either of
14 the following:

15 (1) A system of market-based declining annual aggregate
16 emissions limitations for sources or categories of sources that emit
17 greenhouse gases.

18 (2) Greenhouse gas emissions exchanges, banking, credits, and
19 other transactions, governed by rules and protocols established by
20 the state board, that result in the same greenhouse gas emission
21 reduction, over the same time period, as direct compliance with a
22 greenhouse gas emission limit or emission reduction measure
23 adopted by the state board pursuant to this division.

24 ~~(l)~~

25 (n) “State board” means the State Air Resources Board.

26 ~~(m)~~

27 (o) “Statewide greenhouse gas emissions” means the total annual
28 emissions of greenhouse gases in the state, including all emissions
29 of greenhouse gases from the generation of electricity delivered
30 to and consumed in California, accounting for transmission and
31 distribution line losses, whether the electricity is generated in state
32 or imported. Statewide emissions shall be expressed in tons of
33 carbon dioxide equivalents.

34 ~~(n)~~

35 (p) “Statewide greenhouse gas emissions limit” or “statewide
36 emissions limit” means the maximum allowable level of statewide
37 greenhouse gas emissions in 2020, as determined by the state board
38 pursuant to Part 3 (commencing with Section 38550).

39 *SEC. 3. Section 38575 is added to the Health and Safety Code,*
40 *to read:*

1 38575. *Revenues generated from fees to fund expenditures*
2 *beyond the administrative costs of implementing this division,*
3 *revenues generated as a result of the implementation of*
4 *market-based compliance mechanisms, or revenues generated*
5 *from compliance mechanisms, shall be appropriated by the*
6 *Legislature in furtherance of this division for purposes determined*
7 *by the Legislature.*

8 ~~SEC. 2.—Section 38505 of the Health and Safety Code is~~
9 ~~amended to read:~~

10 ~~38505. For the purposes of this division, the following terms~~
11 ~~have the following meanings:~~

12 ~~(a) “Allowance” means an authorization to emit, during a~~
13 ~~specified year, up to one ton of carbon dioxide equivalent.~~

14 ~~(b) “Alternative compliance mechanism” means an action~~
15 ~~undertaken by a greenhouse gas emission source that achieves the~~
16 ~~equivalent reduction of greenhouse gas emissions over the same~~
17 ~~time period as a direct emission reduction, and that is approved~~
18 ~~by the state board. “Alternative compliance mechanism” includes,~~
19 ~~but is not limited to, a flexible compliance schedule, alternative~~
20 ~~control technology, a process change, or a product substitution.~~

21 ~~(c) “Auction” or “auctioning” means a publicly accessible and~~
22 ~~recorded sale or transaction conducted by means of oral or written~~
23 ~~exchanges, including exchanges made in person or through~~
24 ~~electronic media, to the highest bidder, of a limited quantity of~~
25 ~~allowances to covered entities in a capped system, in which those~~
26 ~~entities are prohibited from emitting pollution beyond the amount~~
27 ~~authorized by allowances to be surrendered. “Auction” or~~
28 ~~“auctioning” does not include any exchange not subject to the laws~~
29 ~~governing financial transactions within the jurisdiction of the state.~~

30 ~~(d) “Carbon dioxide equivalent” means the amount of carbon~~
31 ~~dioxide by weight that would produce the same global warming~~
32 ~~impact as a given weight of another greenhouse gas, based on the~~
33 ~~best available science, including from the Intergovernmental Panel~~
34 ~~on Climate Change.~~

35 ~~(e) “Compliance mechanism” means the use of a~~
36 ~~revenue-generating mechanism that may include, but is not limited~~
37 ~~to, auctioning.~~

38 ~~(f) “Cost-effective” or “cost-effectiveness” means the cost per~~
39 ~~unit of reduced emissions of greenhouse gases adjusted for its~~
40 ~~global warming potential.~~

1 ~~(g) “Direct emission reduction” means a greenhouse gas~~
2 ~~emission reduction action made by a greenhouse gas emission~~
3 ~~source at that source.~~

4 ~~(h) “Emissions reduction measure” means programs, measures,~~
5 ~~standards, and alternative compliance mechanisms authorized~~
6 ~~pursuant to this division, applicable to sources or categories of~~
7 ~~sources, that are designed to reduce emissions of greenhouse gases.~~

8 ~~(i) “Greenhouse gas” or “greenhouse gases” includes all of the~~
9 ~~following gases: carbon dioxide, methane, nitrous oxide,~~
10 ~~hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.~~

11 ~~(j) “Greenhouse gas emissions limit” means an authorization,~~
12 ~~during a specified year, to emit up to a level of greenhouse gases~~
13 ~~specified by the state board, expressed in tons of carbon dioxide~~
14 ~~equivalents.~~

15 ~~(k) “Greenhouse gas emission source” or “source” means any~~
16 ~~source, or category of sources, of greenhouse gas emissions whose~~
17 ~~emissions are at a level of significance, as determined by the state~~
18 ~~board, that its participation in the program established under this~~
19 ~~division will enable the state board to effectively reduce greenhouse~~
20 ~~gas emissions and monitor compliance with the statewide~~
21 ~~greenhouse gas emissions limit.~~

22 ~~(l) “Leakage” means a reduction in emissions of greenhouse~~
23 ~~gases within the state that is offset by an increase in emissions of~~
24 ~~greenhouse gases outside the state.~~

25 ~~(m) “Market-based compliance mechanism” means either of~~
26 ~~the following:~~

27 ~~(1) A system of market-based declining annual aggregate~~
28 ~~emissions limitations for sources or categories of sources that emit~~
29 ~~greenhouse gases.~~

30 ~~(2) Greenhouse gas emissions exchanges, banking, credits, and~~
31 ~~other transactions, governed by rules and protocols established by~~
32 ~~the state board, that result in the same greenhouse gas emission~~
33 ~~reduction, over the same time period, as direct compliance with a~~
34 ~~greenhouse gas emission limit or emission reduction measure~~
35 ~~adopted by the state board pursuant to this division.~~

36 ~~(n) “State board” means the State Air Resources Board.~~

37 ~~(o) “Statewide greenhouse gas emissions” means the total annual~~
38 ~~emissions of greenhouse gases in the state, including all emissions~~
39 ~~of greenhouse gases from the generation of electricity delivered~~
40 ~~to and consumed in California, accounting for transmission and~~

1 distribution line losses, whether the electricity is generated in state
2 or imported. Statewide emissions shall be expressed in tons of
3 carbon dioxide equivalents.

4 (p) “Statewide greenhouse gas emissions limit” or “statewide
5 emissions limit” means the maximum allowable level of statewide
6 greenhouse gas emissions in 2020, as determined by the state board
7 pursuant to Part 3 (commencing with Section 38550).

8 SEC. 3.— Section 38597 of the Health and Safety Code is
9 amended to read:

10 38597. The state board may adopt by regulation, after a public
11 workshop, a schedule of fees to be paid by the sources of
12 greenhouse gas emissions regulated pursuant to this division,
13 consistent with Section 57001. The revenues collected pursuant
14 to this section, including any revenues generated pursuant to
15 compliance mechanisms adopted by the state board, shall be
16 deposited into the Air Pollution Control Fund and are available,
17 upon appropriation by the Legislature, for purposes of carrying
18 out this division, including, but not limited to, all of the following:

19 (a) The costs of administering this division.

20 (b) Renewable energy and energy efficiency programs that
21 reduce greenhouse gas emissions, particularly those programs
22 focusing on low-income consumers.

23 (c) Investments in technologies to reduce greenhouse gas
24 emissions, including research, development, and demonstration
25 and deployment, especially technologies that provide pollution
26 reduction cobenefits.

27 (d) Green jobs development and training that will reduce
28 greenhouse gas emissions.